

FAIRFAX COUNTY PARK AUTHORITY

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PARK AUTHORITIES ACT

Title 15.1-Counties, Cities and Towns

CHAPTER 27 - PARK AUTHORITIES ACT

§ § 15.1-1228 to 15.1-1238.1

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CHAPTER 27.

PARK AUTHORITIES ACT.

SECTION.

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SECTION 15.1-1228. SHORT TITLE: APPLICATION.

This chapter shall be known and may be cited as the "Park Authorities Act." The chapter shall apply to all counties and cities of the State. (Code 1950 (Repl. Vol. 1956), Section 15-714.1; 1950, p. 1244; 1952, c. 401; 1962, c. 623.)

SECTION 15.1-1229. DEFINITIONS.

As used in this chapter, the following words and terms shall have the following meanings unless the context shall indicate another meaning or intent:

(a) The word "authority" shall mean an authority created under the provisions of Section 15.1-1231 or, if any such authority shall be abolished, the board, body, or commissions succeeding to the principal functions thereof or to whom the powers given by this chapter to such authority shall be given by law.

(b) The word "county" shall mean any county in the Commonwealth of Virginia.

(c) The word "municipality" shall mean any city or town incorporated under the laws of the Commonwealth of Virginia.

(d) The term "political subdivision" shall mean a county or municipality.

(e) The term "governing body" shall mean in the case of a county the board of supervisors and in the case of a municipality the board, commission, council or other body by whatever name it may be known, in which the general legislative powers of the municipality are vested.

(f) The term "park" shall mean public parks and recreation areas as the terms are generally used.

(g) The term "federal agency" shall mean and include the United States of America, any department or bureau thereof, the Federal Works Agency, the Reconstruction Finance Corporation, and any other agency or instrumentality of the United States of America heretofore established or which may be established or created hereafter. (Code 1950 (Repl. Vol. 1956), Section 15-714.2; 1950, p. 1244; 1952, c. 401; 1962, c. 623.)

SECTION 15.1-1230. CREATION OF AUTHORITIES

A. The governing body of a political subdivision may by ordinance or resolution, or the governing bodies of two or more political subdivisions may by concurrent ordinances or resolutions, signify their intention to create a park authority, under an appropriate name and title, containing the word "authority" which shall be a public body politic and corporate.

Whenever an authority has been incorporated by two or more political subdivisions, any one or more of such political subdivisions may withdraw therefrom, and any political subdivision not having joined in the original incorporation may join in the authority but no political subdivision shall be permitted to withdraw from any authority after any obligation has been incurred by the authority and while any such obligation remains binding.

B. Each such ordinance or resolution shall include articles of incorporation which shall set forth:

(a) The name of the "authority" and address of its principal office.

(b) The name of each incorporating political subdivision, together with the names, addresses and terms of office of the first members of the board of said authority.

(c) The purpose or purposes for which the authority is to be created.

C. The governing body of each participating political subdivision shall cause to be published at least one time in a newspaper of general circulation in such political subdivision, a copy of such ordinance or resolution together with a notice stating that on a day certain, not less than ten days after publication of said notice, a public hearing will be held on such ordinance or resolution. If at such hearing, in the judgment of the governing body of the participating political subdivision, substantial opposition to the proposed park authority is heard, the members of such body may in their discretion call for a referendum on the question of establishing such an authority as prescribed in the ordinance or resolution to be held on a date specified in a resolution of such governing body not less than thirty nor more than sixty days from the date of adoption of the resolution.

The referendum shall be initiated by resolution of the governing body directed to the election officials of the county or city and the same shall conform to the provisions of Section 24-141 of the Code of Virginia. Where two or more political subdivisions are participating in the formation of such authority the referendum, if any be ordered, shall be held on the same date in all such subdivisions so participating. In any event if ten per centum of the qualified voters in such subdivision file a petition with the governing body at the hearing calling for a referendum such governing body shall order a referendum as herein provided.

D. Having specified the initial plan of organization of the authority, and having initiated the program, the governing bodies of any of the political subdivisions organizing such authority may, from time to time by subsequent ordinance or resolution, after public hearing, and with or without referendum, specify further parks to be acquired and maintained by the authority, and no other parks shall be acquired or maintained by the authority than those so specified. However, if the governing bodies of the political subdivisions fail to specify any project or projects to be undertaken, and if the governing bodies do not disapprove any project or projects proposed by the authority, then the authority shall be deemed to have all the powers granted by this chapter. (Code 1950 (Repl. Vol. 1956), Section 15-714.3; 1950, p. 1244; 1952, c. 401; 1962, c. 623.)

SECTION 15.1-1231. MEMBERS OF AUTHORITY; APPOINTMENT, TERMS, COMPENSATION, ETC.' OFFICERS: QUORUM.

The powers of each authority created hereunder shall be exercised by not less than six members, comprising not less than two members, but always an even number, from each participating political subdivision, appointed by the governing body thereof. One half of these members first appointed by each governing body shall serve for two years and one half shall serve for four years. After the first appointment, the term of office of all members shall be four years. When one or more additional political subdivisions join an existing authority, each of such participating political subdivisions shall have not less than two members on the authority. The first of such members shall be appointed immediately upon the admission of the political subdivision into the authority in the same manner as the first members of the authority. The members of the authority shall elect one of their number chairman of the authority, and shall elect a secretary and a treasurer who need not be members of the authority. The offices of secretary and treasurer may be combined. A majority of the members of the authority shall constitute a quorum and the vote of a majority of members shall be necessary for any action taken by the authority. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority. The political subdivision or subdivisions by action of whose governing body or governing bodies an authority shall have been created and its members appointed hereunder may by ordinance or resolution or concurrent ordinances or resolutions, provide for the payment of compensation to the members of the authority and for the reimbursement to each member of the authority of the amount of his actual expenses necessarily incurred in the performance of his duties. (Code 1950 (Repl. Vol. 1956), Section 15-714.4; 1950, p. 1246; 1952, c. 401; 1962, c 623.)

SECTION 15.1-1232. POWERS OF AUTHORITY.

Each authority created hereunder shall be deemed to be an instrumentality exercising public and essential governmental functions to provide for the public health and welfare, and each such authority is hereby authorized and empowered:

- (a) To have existence for such term of years as specified by the participating political subdivisions;
- (b) To adopt by-laws for the regulation of its affairs and the conduct of its business;
- (c) To adopt an official seal and alter the same at pleasure;
- (d) To maintain an office at such place or places as it may designate;
- (e) To sue and be sued;
- (f) To acquire, purchase, lease as lessee, construct, reconstruct, improve, extend, operate and maintain parks within or partly within and partly without one or more of the political subdivisions by action of whose governing body or governing bodies the authority was created; and to acquire by gift, purchase or the exercise of the right of eminent domain lands or rights in land or water rights in connection therewith; and to sell, lease as lessor, transfer or dispose of any property or interest therein acquired by it, at any time; provided, however, that the power of eminent domain shall not extend beyond the geographical limits of the political subdivision or subdivisions composing the authority;
- (g) To regulate the uses of all lands and facilities under control of the authority;
- (h) To issue revenue bonds and revenue refunding bonds of the authority, such bonds to be payable solely from revenues, derived from the use of the facilities or the furnishing to any political subdivision of park services;
- (i) To accept grants and gifts from the political subdivision forming the authority, the State of Virginia, the federal government or any other governmental bodies or political subdivisions, and from any unit, private corporation, copartnership, association or individual;
- (j) To enter into contracts with the federal government, the Commonwealth of Virginia, any political subdivision, or any agency or instrumentality thereof, or with any unit, private corporation, copartnership, association, or individual providing for or relating to the furnishing of park services or facilities;
- (k) To contract with any municipality, county corporation, individual or any public authority or unit of this or any adjoining state, on such terms as the said authority shall deem proper, for the construction, operation and maintenance of any park which is partly in this Commonwealth and partly in such adjoining state;

(l) To exercise the same rights of acquiring property for the construction or improvement, maintenance or operation of a park as the county or city or counties or cities by which such authority is created may exercise. The governing body of any unit, notwithstanding any contrary provision of law, is hereby authorized and empowered to transfer jurisdiction over, to lease, lend, grant or convey to the authority upon the request of the authority, upon such terms and conditions as the governing body of such unit may agree with the authority as reasonable and fair, such real or personal property as may be necessary or desirable in connection with the acquisition, construction, improvement, operation or maintenance of a park, including public roads and other property already devoted to public use. Agreements may be entered into by the authority with the Commonwealth of Virginia, or any agency acting on behalf of the Commonwealth of Virginia, for the acquisition of any lands or property, owned and/or controlled by the Commonwealth of Virginia, for the purposes of construction or improvement, maintenance or operation of a park;

(m) In the event of annexation by a municipality not a member of the authority of lands, areas, or territory served by the authority, then such authority may continue to do business, exercise its jurisdiction over its properties and facilities in and upon or over such lands, areas or territory as long as any bonds or indebtedness remain outstanding or unpaid, or any contracts or other obligations remain in force;

(n) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including a trust agreement or trust agreements securing any revenue bonds or revenue refunding bonds issued hereunder;

(o) To do all acts and things necessary or convenient to carry out the powers granted by this chapter.

(p) To borrow at such rates of interest not to exceed six percent per annum as the authority may determine from individuals, partnerships, or private or municipal corporations, for the purpose of acquiring parcels of lands and improvements thereon, to issue its notes, bonds or other obligations, to secure such obligations by mortgage or pledge of the property and improvements being acquired and the income derived therefrom, and to use any revenues and other income of the authority for payment of interest and retirement of principal of such obligations; provided that prior approval of the governing body of the county or city shall be obtained by an authority created by a single political subdivision. Any county, city or town which has formed or joined an authority may lend money to such authority. The power to borrow set forth in this § 15.1-1232 (p) shall be in addition to the power to issue revenue bonds and revenue refunding bonds set forth in § 15.1-1232 (h) and § 15.1-1237. Notes, bonds or other obligations issued under this subsection (p) shall not be deemed to constitute a debt of the Commonwealth or of any political subdivision of the Commonwealth or a pledge of the faith and credit of the Commonwealth or of any political subdivision of the Commonwealth. (Code 1950 (Repl. Vol. 1956), Section 15-714.5; 1950, p. 1246; 1952, c. 401; 1956, c. 472; 1962, c. 623.)

SECTION 15.1-1233. EXEMPTION FROM TAXATION.

No authority shall be required to pay any taxes or assessments upon any park acquired and constructed by it under the provisions of this chapter. (Code 1950 (Repl. Vol. 1956), Section 15-714.6; 1950, p. 1248; 1962, c. 623.)

SECTION 15.1-1234. RATES AND CHARGES.

The authority is hereby authorized to fix and revise from time to time rates, fees and other charges for the use of and for the services furnished or to be furnished by any park. (Code 1950 (Repl. Vol. 1956), Section 15-714.7; 1950, p. 1248; 1963, c. 623.)

SECTION 15.1-1235. TRUST FUNDS

All moneys received pursuant to the authority of this chapter shall be deemed to be trust funds, to be held and applied solely as provided in this chapter.

The resolution of the authority shall provide that any officer to whom, or any bank, trust company or other fiscal agent to which, such moneys shall be paid shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as such resolution or trust agreement may provide. (Code 1950 (Repl. Vol. 1956), Section 15-714.8; 1950, p. 1248; 1962, c. 623.)

SECTION 15.1-1236. CONVEYANCE OR LEASE OF PARK TO AUTHORITY; CONTRACT FOR PARK SERVICES; WHEN REFERENDUM REQUIRED BEFORE CERTAIN CONTRACTS MADE.

Each county, municipality and other public body is hereby authorized and empowered:

(a) To convey or lease to any authority created hereunder, with or without consideration, any park upon such terms and conditions as the governing body thereof shall determine to be for the best interests of such county, municipality or other public body;

(b) To contract with any authority created hereunder for park services provided, however, that no political subdivision shall enter into any contract with an authority involving payments by such political subdivision to such authority for park services which requires the political subdivision to incur an indebtedness extending beyond any one fiscal year, unless the question of entering into such contract shall first be submitted to the qualified voters of the political subdivision for approval or rejection by a majority vote of such qualified voters voting in an election on such question; provided that nothing herein contained shall prevent any political subdivision from making a voluntary contribution to any authority at any time.

In the event that the governing body of a political subdivision shall desire to contract with an authority under the provisions of paragraph (b) of this section, such governing body shall adopt a resolution stating in brief and general terms the substance of the proposed contract for park services and requesting the circuit court, or any judge thereof, in and for the county in which such political subdivision is

located to order an election upon the question of entering into such contract. A copy of such resolution, certified by the clerk of such governing body, shall be filed with the judge of such circuit court who shall thereupon make an order requiring the judges of election on the day fixed in such order, not less than ten days nor more than thirty days from the date of such order, to open a poll and take the sense of the qualified voters in the political subdivision on the question of entering into such contract. Notice of such election in the form prescribed by the judge of the circuit court shall be published at least once in a newspaper of general circulation in the political subdivision at least ten days before the election.

The regular election officers of the political subdivision, at the time designated in such order authorizing such vote, shall open the polls at the various voting places in the political subdivision and shall conduct such election in such manner as is provided by law for other elections.

The question to be submitted to the voters for determination shall include the names of the political subdivision and the authority between whom the contract is proposed; and the nature, duration and cost of such contract. The votes shall be counted, returns made and canvassed as in other special elections and the results certified by the commissioners of election to the circuit court of the county or a judge thereof in vacation. If it shall appear by the report of the commissioners of election that a majority of the qualified voters of the political subdivision voting on the question approve such contract for park services, the circuit court or a judge thereof in vacation shall forthwith enter an order authorizing the governing body of the political subdivision to enter into such contract. (Code 1950 (Repl. Vol. 1956), Section 15-714.9; 1950, p. 1248; 1956, c.474; 1962, c. 623.)

Where the evidence failed to disclose that the county had made any contract in violation of this section, it could not be anticipated that it would use the funds derived from a bond issue except as and for the purpose submitted to the voters in the ballot. *Fairfax County Taxpayers Alliance v. Board of County Supervisors of Fairfax County*, 202 Va. 462, 117 S.E. (2d) 753.

SECTION 15.1-1237. REVENUE BONDS.

Each authority is hereby authorized to issue, at one time or from time to time, revenue bonds of the authority for the purpose of acquiring, purchasing, constructing, reconstructing, improving or extending parks and acquiring necessary land or equipment therefor, and revenue refunding bonds of the authority for the purpose of refunding any revenue bonds outstanding under the provisions of this chapter. The bonds of each issue shall be dated, shall mature at such time or times not exceeding forty years from their date or dates and shall bear interest at such rate or rates not exceeding six per centum (6%) per annum, as may be determined by the authority, and may be made redeemable before maturity, at the option of the authority at such price or prices and under such terms and conditions as may be fixed by the authority prior

to the issuance of the bonds. The authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this chapter or any recitals in any bonds issued under the provisions of this chapter, all such bonds shall be deemed to be negotiable instruments under the laws of this Commonwealth. The bonds may be issued in coupon or registered form or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

The authority may sell such bonds in such manner either at public or private sale, and for such price, as it may determine to be for the best interests of the authority, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than six per centum (6%) per annum, computed with relation to the absolute maturity or maturities of the bonds in accordance with standard tables of bond values, excluding, however, from such computation the amount of any premium to be paid on redemption of any bonds prior to maturity.

The resolution providing for the issuance of revenue bonds, and any trust agreement securing such bonds, may also contain such limitations upon the issuance of additional revenue bonds as the authority may deem proper, and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement.

Bonds may be issued under the provisions of this chapter without obtaining the consent of any commission, board, bureau or agency of the Commonwealth of Virginia or of any political subdivision, and without any other proceedings or the happening of other conditions or things than those proceedings, conditions or things which are specifically required by this chapter.

Bonds issued under the provisions of this chapter shall not be deemed to constitute a debt of the Commonwealth or of any political subdivision of the Commonwealth or a pledge of the faith and credit of the Commonwealth or of any political subdivision of the Commonwealth, but such bonds shall be payable solely from revenues of the authority as provided herein. (Code 1950 (Repl. Vol. 1956), Section 15-714.10; 1956, c. 472; 1958, c.484; 1962, c. 623.)

SECTION 15.1-1238. SAME FOR WATER OR SEWER SYSTEMS, ETC.

An authority created under the provisions of this chapter is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of revenue bonds of the authority for the purpose of

paying the whole or any part of the cost of any water system, sewer system, sewage disposal system, or garbage and refuse collection and disposal system, or any combination of any thereof and for improvement and maintenance of any such system. The principal of and the interest on such bonds shall be payable solely from the funds herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at such rate or rates not exceeding five per centum per annum, shall mature at such time or times not exceeding twenty years from their date or dates, as may be determined by the authority, and may be made redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds.

Revenue bonds issued under the provisions of this chapter shall not be deemed to constitute a debt of the State or of any incorporating or participating political subdivision, or a pledge of the faith and credit of the State or of any incorporating or participating political subdivision. (Code 1950 (Repl. Vol. 1956), Section 15-714.11; 1954, c. 540; 1962, c. 623.)

SECTION 15.1-1238.1. BONDS MUTILATED, LOST OR DESTROYED.

Should any bond issued under this chapter become mutilated or be lost or destroyed, the authority may cause a new bond of like date, number and tenor to be executed and delivered in exchange and substitution for, and upon cancellation of, such mutilated bond and its coupons, or in lieu of and in substitution for such lost or destroyed bond and its unmaturing coupons. Such new bond or coupon shall not be executed or delivered until the holder of the mutilated, lost or destroyed bond (1) has paid the reasonable expense and charges in connection therewith and (2) in the case of a lost, or destroyed bond, has filed with the authority and its treasurer satisfactory evidence that such bond was lost or destroyed and that the holder was the owner thereof and (3) has furnished indemnity satisfactory to its treasurer. (Code 1950 (Suppl.), Section 15-714.12; 1960, c. 203.)

The number of this section was assigned by the Virginia Code Commission; the number in the 1962 act having been 15-714.12.